

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FEDERAL HOME LOAN BANK OF
INDIANAPOLIS,

Plaintiff,

v.

BANC OF AMERICA MORTGAGE
SECURITIES, INC., et al.,

Defendants.

Case No. 1:10-CV-001463-WTL-DML

(Marion Superior Court Cause
No. 49D05-1010-PL-045071)

JOINDER OF INDYMAC MBS, INC. IN NOTICE OF REMOVAL

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1441 and 1446(a), Defendant IndyMac MBS, Inc. (“IndyMac MBS”) consents to, and joins in, the Notice of Removal filed in this action on November 15, 2010 (“Notice of Removal”) (Docket Entry 8), originally commenced in the Superior Court of Marion County for the State of Indiana, Cause No. 49D05-1010-PL-045071 (“State Court Action”). In support of removal, IndyMac MBS states as follows:

1. The State Court Action may be removed to this Court pursuant to 28 U.S.C. § 1441(c) on the basis of diversity of citizenship. Congress may specifically provide for a federally-chartered corporation to have citizenship in a state, by incorporating it as a “body corporate” of a particular state. *See Lehman Bros. Bank v. Frank T. Yoder Mortgage*, 415 F. Supp. 2d 636, 640 (E.D. Va. 2006); *Patterson v. Am. Nat'l Red Cross*, 101 F. Supp. 655, 656-57 (S.D. Fla. 1951). Plaintiff is a “body corporate” of the State of Indiana and is thus a citizen of Indiana for diversity jurisdiction purposes. None of the Defendants are citizens of the state of

Indiana, and the amount in controversy exceeds \$75,000. *See* 12 U.S.C. § 1332. With respect to IndyMac MBS, it is incorporated in Delaware and has its principal place of business in Orange County, California. For these reasons, removal is appropriate on the basis of diversity of citizenship.

2. The “sue and be sued” provision applicable to Plaintiff under the Federal Home Loan Bank Act of 1932, 12 U.S.C. § 1432(a), confers original subject matter jurisdiction on federal courts. *See Am. Nat'l Red Cross v. S.G.*, 505 U.S. 247, 255 (1992); *Pirelli Armstrong Tire Corp. Retiree Med. Benefits Trust v. Raines*, 534 F.3d 779, 785 (D.C. Cir. 2008); *see also Ewing v. Federal Home Loan Bank of Des Moines*, 645 F. Supp. 2d 707, 709 (S.D. Iowa 2009) (noting that federal district court possessed jurisdiction over suit against Federal Home Loan Bank under the “sue and be sued” clause of the statute enacting its federal corporate charter and 28 U.S.C. § 1441(b)). Thus, the State Court Action may be removed to this Court pursuant to 28 U.S.C. § 1441(b) on the grounds that this Court has original subject matter jurisdiction over the action.

Dated: November 17, 2010

Respectfully submitted,

Plews Shadley Racher & Braun LLP

/s/ Jonathan P. Emenhiser

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 17th day of November, 2010, the foregoing was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system:

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